

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BLUE HILLS OFFICE PARK LLC,
Plaintiff,
Defendant-in-
Counterclaim,

v.

J.P. MORGAN CHASE BANK,
as Trustee for the Registered Holders of Credit
Suisse First Boston Mortgage Securities Corp.,
Commercial Mortgage Pass-Through Certificates,
Series 1999-C1, and CSFB 1999-C1 ROYALL
STREET, LLC,

Defendants,
Plaintiffs-in-
Counterclaim,

v.

WILLIAM LANGELIER and
GERALD FINEBERG,
Defendants-in-
Counterclaim.

CIVIL ACTION
NO. 05-10506-WGY

**LENDER'S OPPOSITION TO MOTIONS OF BLUE HILLS OFFICE PARK LLC,
GERALD FINEBERG, AND WILLIAM LANGELIER TO ALTER OR AMEND
JUDGMENT PURSUANT TO FED. R. CIV. P. 59(E)**

The Lender¹ opposes the motions of Gerald Fineberg, Blue Hills Office Park LLC and William Langelier pursuant to Fed. R. Civ. P. 59(e) (docket nos. 195 & 197) to amend the judgment in this action (the “Judgment”, docket no. 190). The motions should be denied because (1) they merely rehash arguments already considered and rejected by the Court; and (2) they do

¹ Defendants and Plaintiffs-in-Counterclaim J.P. Morgan Chase Bank, as Trustee for the Registered Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 1999-C1 (the “Trustee”) and CSFB 1999-C1 Royall Street, LLC (“CSFB”) are referred to collectively herein as the “Lender.”

not establish a manifest error of law in the Judgment or present newly discovered evidence that would justify amending the Judgment.

A motion to alter or amend judgment under Rule 59(e), Fed. R. Civ. P., “may not be used by a [losing] party. . . to repeat old arguments previously considered and rejected by the Court.” Berrios-Berrios v. Commonwealth of Puerto Rico, 205 F. Supp. 2d 1, 2 (D.P.R. 2002) (citing Standard Quimica de Venezuela, C.A. v. Central Hispano International, Inc., 189 F.R.D. 202, 205 (D.P.R. 1999) and National Metal Finishing Com. V. Barclayamerican/Commercial, Inc., 899 F.2d 119, 124 (1st Cir. 1990)); see also In re Bank of New England Corp., 142 B.R. 584, 587 (D. Mass. 1992) (Young, J.) (a motion for reconsideration “is not a vehicle for rehashing arguments previously made...”). The motions, however, do exactly that. Blue Hills, Fineberg and Langelier argue that the Court should amend the Judgment to include the Court’s particularized findings with respect to each count of the Lender’s Counterclaim. They made the same argument, which the Court rejected, in their “Reply Memorandum of Blue Hills Office Park LLC, William Langelier and Gerald Fineberg Regarding Pre-Judgment Interest and Opposition to Amended Motion for Entry of Judgment” (docket no. 181).

To justify alteration or amendment of a judgment, motions under Rule 59(e) “must either clearly establish a manifest error of law or must present newly discovered evidence.” FDIC v. World Univ. Inc., 978 F.2d 10, 16 (1st Cir. 1992). The motions do neither. The Judgment properly states that Blue Hills, Gerald Fineberg, and William Langelier are jointly and severally liable to the Lender on Lender’s Counterclaim and properly identifies the amounts for which they are liable. That is all that is required. Differentiation of recovery under the particular counts of the Counterclaim is not necessary, and failure to differentiate between counts is not a manifest error of law. The motions cite no authority holding otherwise.

CONCLUSION

For the reasons stated above, the Lender requests that the Court deny the motions to alter or amend judgment.

Respectfully submitted,

CSFB 1999-C1 ROYALL STREET, LLC,
and J.P. MORGAN CHASE BANK, as
Trustee for the Registered Holders of Credit
Suisse First Boston Mortgage Securities
Corp., Commercial Mortgage Pass-Through
Certificates, Series 1999-C1,

By their attorneys,

/s/ Bruce E. Falby

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